

MINUTES OF THE METRO COUNCIL MEETING

December 17, 1998

Council Chamber

Councilors Present: Jon Kvistad (Presiding Officer) Ruth McFarland, Don Morissette, Patricia McCaig, Susan McLain, Rod Monroe, Ed Washington

Councilors Absent:

Presiding Officer Kvistad convened the Regular Council Meeting at 2:03 p.m.

1. INTRODUCTIONS

Presiding Officer Kvistad introduced his father, Rod Kvistad.

2. CITIZEN COMMUNICATION

Art Lewellan, 3205 SE 8th, #9, Portland, OR 97212, spoke of his work concerning the LOTI system. He complained about the JPACT comments made in the Oregonian story about the replacement of the Ross Island bridge.

Councilor McFarland noted that the Oregonian may have misquoted the JPACT member.

Mr. Lewellan continued to review his plan to update the Ross Island bridge and corridor access. He felt his plan would solve the Sellwood Bridge problem.

Councilor McFarland noted a point of privilege. She commented that Mr. Lewellan had grown from an amateur presenter to a polished speaker and presenter of information before the Council. She thanked Mr. Lewellan for coming.

3. EXECUTIVE OFFICER COMMUNICATIONS

None.

4. AUDITOR COMMUNICATIONS

None.

5. MPAC COMMUNICATION

None.

6. CONSENT AGENDA

6.1 Consideration meeting minutes of the December 10, 1998 Regular Council Meeting.

Motion: **Councilor McFarland** moved to adopt the meeting minutes of December 10, 1998 Regular Council Meeting.

Seconded: **Councilor Washington** seconded the motion.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

7. ORDINANCES - SECOND READING

7.1 **Ordinance No. 98-791**, For the Purpose of Adopting a New Chapter in the Metro Code Making the Local Government Boundary Changes and Declaring an Emergency.

Motion: **Councilor McLain** moved to adopt Ordinance No. 98-791.

Seconded: **Councilor McFarland** seconded the motion.

Councilor McLain reviewed that MPAC had been working on this ordinance and it had been to the state legislature as well and returned. The outstanding issues were the number of days for the notification to interested parties and dealing with definitions and issues at the final decision. She noted letters from the Cities of Lake Oswego and West Linn which laid out issues they felt needed more conversation. MPAC had agreed to forward this with a do pass recommendation with the understanding that some amendments could be made at the discussions in the new year.

Councilor Morissette asked Mr. Cooper what protections were in place for the people who did not wish to be annexed.

Mr. Cooper said the ordinance reflected that with the boundary commission being dissolved, annexations decisions would be made under state law with the added requirements set forth in this ordinance. He said state law already provided persons who did not want to be annexed with several deep protections. If the property being proposed for annexation was not supported by at least half of the owners and voters in the proposed area, or if 10% of the voters asked for one, there was a right to an election. He said that continued in place as a basic overall protection and there were public hearing requirements and procedural safeguards both in state law and in this ordinance.

Councilor Morissette asked now to reconcile the part about the "necessary party does not include property owners".

Mr. Cooper said the 1997 legislature set forth that Metro was to set up a process for appeal to the Metro Boundary Appeal Commission in this ordinance. He said that appeal right to the Metro Commission was reserved only to local governments. He said these governments were the necessary parties in this ordinance to define how they get notice to trigger their potential appeal rights to the commission. He said citizens were affected by boundary changes and retained the same appeal rights they had under state law anywhere else in the state which was to take the matter to LUBA or to court depending on the circumstances of the proposed change.

Councilor Morissette asked for clarification about special service districts, specifically how a fire department would fit in.

Mr. Cooper said the city itself would be a necessary party so the city council would take into account all of the interests of that city in deciding what position to take.

Councilor Morissette asked if the final decision being an election was state statute.

Mr. Cooper responded state law provided for elections in some boundary change circumstances. He said some city charters provided for elections as a home rule matter. He continued that those election issues were preserved under the ordinance and were allowed either under local government home rule authority or in elections. He said the timing of such appeals was an issue still being discussed at MPAC.

Councilor Morissette said that answered the questions he had.

Presiding Officer Kvistad opened a public hearing on Ordinance No. 98-791.

Councilor McLain noted page 2 of Exhibit A, item (g) showed the definition for “final decision”, and (j) showed “necessary party”. She also noted that the Lake Oswego letter called for the boundary change election to be the last step, and the West Linn letter mentioned the boundary change issue that was still being discussed.

Mayor Jill Thorn, City of West Linn, PO Box 48, West Linn, OR 97068, delivered a letter (a copy of which can be found with the permanent record of this meeting) which she felt had all the necessary information and requested this amendment be sent back to committee rather than opening a Pandora’s box. She said West Linn needed fairly quick action to solve this problem.

Chris Eaton, planner with W & H Pacific, entered a letter to the record in support of the adoption of the ordinance. (A copy of this letter can be found in the permanent record of this meeting.) If the issue came back before council, she urged consideration of amendments dealing with a more efficient annexation process than what was in the ordinance. She said her letter detailed areas to consider.

Presiding Officer Kvistad closed the public hearing.

Discussion: **Presiding Officer Kvistad** asked Councilor McLain about Mayor Thorn’s request and her recommendations.

Councilor McLain understood that Mayor Thorn wanted to be sure her letter would go directly back to MPAC for further discussion in January, but she was supporting passage of the document in front of council today. She also understood that the issues brought up by the two previous speakers were within the discussion items that MPAC and the Chair, Rob Drake, agreed to discuss more. They felt it was valuable to go forward with this document because the issues were not new.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

8. RESOLUTIONS

8.1 **Resolution No. 98-2733**, For the Purpose of Appointing New Members to the Water Resources Policy Advisory Committee in November 1998.

Motion: **Councilor McLain** moved to adopt Resolution No. 98-2733.

Seconded: **Councilor McFarland** seconded the motion.

Discussion: **Councilor McLain** said this resolution would update the WRPAC membership list. She noted the 8 persons listed on the resolution and said they had been through the process.

Councilor Washington asked Councilor McLain to explain to the audience what WRPAC meant.

Councilor McLain responded that it was the Water Resources Policy Advisory Committee and had been in place for at least 15 years dealing with technical issues as they faced water quality and Title 3 (water quality and stream buffer protection) work ahead.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

9. FINAL ACTION ON URBAN GROWTH BOUNDARY ORDINANCES AND RESOLUTIONS.

Presiding Officer Kvistad said he would open a public hearing for argument but not evidence because the record closed on December 8, 1998. He asked if there was any preference as to how the final action ordinances and resolutions proceeded.

Councilor McCaig said the point at which having a preference mattered was two weeks ago. She said this was the final vote and she felt it was a little disingenuous to put it forward now as if it wasn't significant 2 weeks ago when it was very important how they did it. She said she had no concern today as to how they did it because the decisions had already been made.

Councilor Monroe said he would prefer to go from east to west.

9.4 **Ordinance No. 98-781D**, For the Purpose of Amending Metro Urban Growth Boundary and the 2040 Growth Concept Map in Ordinance 95-625A in the Pleasant Valley Area of Clackamas County.

Motion: **Councilor Kvistad** moved to adopt Ordinance No. 98-781D.

Seconded: **Councilor McFarland** seconded the motion.

Presiding Officer Kvistad opened a public hearing on Ordinance No. 98-781D. No one came forward. Presiding Officer Kvistad closed the public hearing.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

9.3 **Ordinance No. 98-786C**, For the Purpose of Amending Metro Urban Growth Boundary and the 2040 Growth Concept Map in Ordinance 95-625A in the Sunnyside Area of Clackamas County.

Motion: **Councilor Kvistad** moved to adopt Ordinance No. 98-786C.

Seconded: **Councilor Morissette** seconded the motion.

Presiding Officer Kvistad opened a public hearing on Ordinance No. 98-786C. No one came forward. Presiding Officer Kvistad closed the public hearing.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

9.5 **Ordinance No. 98-782C**, For the Purpose of Amending Metro Urban Growth Boundary and the 2040 Growth Concept Map in Ordinance 95-625A in the Stafford Area of Clackamas County.

Motion: **Councilor Kvistad** moved to adopt Ordinance No. 98-782C.

Seconded: **Councilor Monroe** seconded the motion.

Councilor Morissette summarized his lack of support. He felt Metro was playing an inappropriate role in forcing a local government to urbanize when there was adequate supply in other areas.

Councilor McLain said she would be voting no on this issue because they had, in good faith, agreed with MPAC that there was opportunity for these folks to go forward with planning in the new year. She did not believe this was the right way to have that planning start. She said it was paramount that the council try to find the planning and infrastructure dollars to make this a success and not set them up to fail. She thought the only way to do that was to recognize that the plan had bridges over the Tualatin River and other very expensive infrastructure costs that needed to be addressed or the plan would just be a pretty picture.

Presiding Officer Kvistad opened a public hearing on Ordinance No. 98-782C.

Judie Hammerstad, Chair of the Clackamas County Commission, 906 Main St., Oregon City, OR 97045-1819, said she had testified regarding this issue several times and commented that at the last meeting council had imposed conditions which Clackamas County had not seen until the last couple of days. She reported they had great difficulty with some of the conditions, notably paragraph 6 imposing the conditions. She said they assumed certain actions prior to urban development must occur and were intended as pre-requisites to such development, not to impose independent requirements on the county or affected cities to take the specified action at any particular time. She said if the latter was the case and they were being expected to impose these as requirements on themselves, they would object to such conditions as beyond Metro's authority, including 6-g which required them to provide an urban level of law enforcement prior to development. She said this was not a land use action and they did not have a functional plan on law enforcement. She said when she called Dan Cooper to ask from whence the authority came, she did not get a satisfactory answer. They also objected to a number of specific conditions proposed. She said 6-f provided for an urban service agreement "based on the Rosemont Village concept plan". She said while they recognized an urban service plan was required, there was no justification for requiring it to be based on a privately developed plan which had not been reviewed by the affected jurisdictions. She continued that conditions 6-h, subsection 3 and subsection 4, were also inappropriate as both precluded options available under the cited provisions of Title 6. She realized that the record was closed but she thought they needed to call council's attention to their objections to the conditions imposed and their objections to not having an opportunity to be advised or involved in the conditions.

David Adams, 19621 S. Hazelhurst Lane, West Linn, OR 97068, was distressed that much of the information distributed for their decision making had been engineered by private developers and the informational meetings were not scheduled well so people could attend. He argued that they had received much of their information too late and felt the discord in his community had been engineered by the private sources. He said the people had a credibility problem and the

RPOA's plan from the outset had been a very clever and expensive end run around the process, the citizens and the county. He asked council to admit they had been deceived and do the right thing.

Councilor McFarland could not resist commenting that they would watch the events a little more closely than the referees and that Vinnie Testeverde had not made that touchdown.

Presiding Officer Kvistad closed the public hearing.

Discussion: None.

Vote: The vote was 4 aye/ 3 nay/ 0 abstain. The motion passed with Councilors McCaig, McLain and Morissette voting no.

9.8 **Resolution No. 98-2729C**, For the Purpose of Expressing Council Intent to Amend the Urban Growth Boundary to Add Urban Reserve Areas 39, 41, 42, 62 and 63 in the West Metro Subregion.

Motion: **Councilor Kvistad** moved to adopt Resolution No. 98-2729C.

Seconded: **Councilor McFarland** seconded the motion.

Councilor McLain said she would be supporting this resolution but thought it was important to remember this was a resolution. She said since they had just put Stafford into the boundary today it would be important to scrutinize all resolutions to see if they were needed in the next year. She said this one had some interesting areas in that there would be state action on a prison site that could change the configuration of the resolution. She said if and when an ordinance was written from this resolution, there would be many issues to decipher as far as need assessment and other peculiarities to this resolution's statements.

Presiding Officer Kvistad opened a public hearing on Resolution No. 98-2729C. No one came forward. Presiding Officer Kvistad closed the public hearing.

Vote: The vote was 6 aye/ 1 nay/ 0 abstain. The motion passed with Councilor McCaig voting no.

9.1 **Ordinance No. 98-779D**, For the Purpose of Amending Metro Urban Growth Boundary and the 2040 Growth Concept Map in Ordinance 95-625A in Urban Reserve Areas 43 and 47 of Washington County and Urban Reserve Areas 33 and 34 of Clackamas County.

Motion: **Councilor Kvistad** moved to adopt Ordinance No. 98-779D.

Seconded: **Councilor Morissette** seconded the motion.

Councilor McLain pointed out the amendment from December 10 which added the first tier land in sites #33 and #34 and for which the City of Lake Oswego had submitted a letter of intent and willingness to plan.

Presiding Officer Kvistad opened a public hearing on Ordinance No. 98-779D. No one came forward. Presiding Officer Kvistad closed the public hearing.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

9.7 **Resolution No. 98-2728C**, For the Purpose of Expressing Council Intent to Amend the Urban Growth Boundary to Add Urban Reserve Areas 51, 52, 53, 54 and 55 to the Hillsboro Regional Center Area.

Motion: **Councilor Kvistad** moved to adopt Resolution No. 98-2728C.

Seconded: **Councilor Morissette** seconded the motion.

Discussion: **Councilor McLain** indicated that because of the number of dwelling units the productivity analysis said they could achieve on the 5 ordinances in front of them today, she thought it was extremely important to remember this was not a land use decision. She said if and when this resolution came forward in an ordinance form, there were many issues she would need answered before she could go forward. She said she had indicated at the last two meetings that she saw some value in bringing this into the boundary at this time and some questions she had whether this prime exclusive farm use land (primarily St. Mary's) met the status of a special need. She said there had been recommendations and findings put forward in appeal and the courts and LUBA would have to indicate to her that special need was met in that area. She also noted throughout the public testimony there had been a great deal said about the transportation issues and urban reserve planning in transportation. She was not comfortable with the lack of level of detail to specificities to transportation issues, both on-site and off-site, between the responsible parties of Hillsboro and Washington County. She noted they had put in 5 ordinances today that would actually change the UGB. She said she would want to review the need assessment in 1999, including issues brought up by the state and MPAC dealing with the 200' buffers and what was actually buildable land. She wanted to see what the buildable land inventory looked like in 1992. She said because of the 100s of phone calls she had received, in favor and against the resolution, she was looking forward to Hillsboro continuing the citizen involvement with their planning commission.

Councilor McCaig said this was farmland and they could meet the basic requirements of the state without including it. She felt they could avoid an appeal process and revisit this with future councils and future needs. She said she would be voting no.

Councilor Morissette stated one of the reasons he found this to be an important parcel was the large amount of infrastructure they had put into Washington County. He felt this was closer to solving their ability to have a more compact urban form and had a better chance of being built than anything they had at this time. He felt it would go a long way toward stopping some of the sprawl they were experiencing with the overly large urban growth boundary that people were currently leapfrogging like crazy.

Councilor McLain said she had promised the Washington County Farm Bureau at 885 SW Baseline Rd., Hillsboro, that she would make sure their letter was given to the council. The letter was signed by Larry Dyke, President.

Presiding Officer Kvistad said it would be considered argument but would be available if anyone wanted to see it. He said it would be part of today's record as what was brought to the discussion.

Presiding Officer Kvistad opened a public hearing on Resolution No. 98-2728C.

Steve Lawrence reaffirmed that he agreed with Councilors McLain and McCaig but respectfully disagreed with Councilor Morissette's statement that this was close to the jobs you are looking to balance. He said it was not close to the jobs you are looking to balance, it was at least \$200 million away. He said if the process had included all of the lands they could have done everything they needed to do and provide the best services they were looking for. He did not know why the council was in such a hurry to do unwise investment when wise investment could be less than a year away. He noted that the next ordinance, site #55, was not a stand alone project and not the wisest place to make an investment.

Presiding Officer Kvistad closed the public hearing.

Vote: The vote was 4 aye/ 3 nay/ 0 abstain. The motion passed with Councilors McCaig, Monroe and Washington voting no.

9.2 **Ordinance No. 98-788C**, For the Purpose of Amending Metro Urban Growth Boundary and the 2040 Growth Concept Map in Ordinance 95-625A in Urban Reserve Area 55 of Washington County.

Motion: **Councilor Kvistad** moved to adopt Ordinance No. 98-788C.

Seconded: **Councilor Morissette** seconded the motion.

Presiding Officer Kvistad opened a public hearing on Ordinance No. 98-788C. No one came forward. Presiding Officer Kvistad closed the public hearing.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed.

9.6 **Resolution No. 98-2726B**, For the Purpose of Expressing Council Intent to Amend the Urban Growth Boundary to Add Urban Reserve Areas 65 in Washington County.

Motion: **Councilor Kvistad** moved to adopt Resolution No. 98-2726B.

Seconded: **Councilor Monroe** seconded the motion.

Presiding Officer Kvistad opened a public hearing on Resolution No. 98-2726B. No one came forward. Presiding Officer Kvistad closed the public hearing.

Vote: The vote was 4 aye/ 3 nay/ 0 abstain. The motion passed with Councilors McCaig, Morissette and McLain voting no.

Presiding Officer Kvistad declared the ordinances being duly voted for and signed were adopted. He said this ended 6 years of work toward development of the 2040 concept. This was a major triumph for the community and was the first movement of the UGB in 20 years. He commended his fellow councilors for all of their tolerance and hard work. He thanked the members of the public who testified and the community at large for allowing them the opportunity to make this positive step. He noted this was his last major item as presiding officer.

Councilor Monroe thanked Presiding Officer Kvistad for his leadership through this process. He said he was particularly impressed with the way the Presiding Officer handled lengthy public

hearings across the region and the patience he showed in dealing with some acrimonious situations. He felt the Presiding Officer did an outstanding job.

Councilor Morissette said he felt Presiding Officer Kvistad had done a good job and said it had been an honor to serve with him and the rest of the councilors as well as the Executive and the Auditor.

Councilor Washington said the Presiding Officer had done a great job and thanked the councilors who were leaving. He felt the council had done the best they could for the public and wanted them to know that none of their testimony had gone unnoticed.

Councilor McCaig said this was not rocket science, it was work they were elected to do and she believed they could have done a better job. She said the total number added was around 5,400 acres, 3,400 of them done by ordinance. She said the total would be challenged and the net result would not be very different from where they had started 4 years ago. She felt they had angered and confused a lot of people in the process and had chosen controversial paths that did not need to be chosen. She was not sure the benefits were clear as a result of those paths. She believed most of the sites would have been included regardless of the process but was sad that at the end they had left a clear indication of their policies about growth. She felt they left a hodgepodge of sites that had been discussed on an individual basis without collectively looking at the region and talking about where they should grow, and not going around the region to look at where the growth was needed to benefit the community they were trying to create. She felt they had merely expanded. She noted there was logic to the way she had voted. She appreciated the work everyone had done and believed their intentions were good. She felt the next council should work at doing a better job. She said she did not think the public involvement process needed to be an endurance test.

Councilor McLain agreed with Councilor McCaig that this was a continuing decision that would be refined and improved. She also agreed they had learned from the process and would improve in the next year. She did not feel it was an unclear process and said they had documents to explain the goal of the land use system and the 2040 growth concept. She said they must be heartened that it was important to continue to strive to improve the livability of the region.

Councilor Morissette thanked the staff for their work.

Councilor McFarland said in her 9½ years on the council she had watched it grow into a very cohesive unit. She felt a large part of that was thanks to Presiding Officer Kvistad's leadership and ability over the last 3 years to keep an even playing field and have everyone testify. She noted that they did not always agree as a group. She said the calls she had received regarding the sites that had divided votes today had been about 50/50, so some folks would have been unhappy no matter what the result of the vote. She commended the council as a whole on being amicable about arriving at their conclusions. She appreciated working with the council and staff and said she had learned a great deal from this very interesting experience and enjoyed it very much.

Presiding Officer Kvistad said this was the only jurisdiction in the US that had been able to accomplish what they had done to direct growth and urban sprawl. He said they could be proud of what they had done no matter if they agreed or not.

10. COUNCILOR COMMUNICATION

Presiding Officer Kvistad presented a plaque to Councilor Morissette. He said it had been an honor and a pleasure to work with him.

Presiding Officer Kvistad presented a plaque to Councilor McCaig. He said he had enjoyed serving with her.

Presiding Officer Kvistad presented a plaque to Deputy Presiding Officer McFarland. He said it had been a true honor to work with her and he would miss her presence on the council.

Councilor Morissette introduced his son Teddy who greeted the audience.

Councilor Washington presented a plaque to Presiding Officer Kvistad thanking him for his service to the region and to the council. He noted it was not an easy job and Councilor Kvistad had done it for 3 years which was remarkable.

11. ADJOURN

There being no further business to come before the Metro Council, Presiding Officer Kvistad adjourned the meeting at 3:16 p.m.

Prepared by,

Chris Billington
Clerk of the Council

Document Number	Document Date	Document Title	TO/FROM	RES/ORD
121798c-01	12/17/98	FAX letter RE: Local Government Boundary Changes	Jon Kvistad	Ord. No. 98-781
121798c-02	12/16/98	Letter RE: Local Government Boundary Changes	Jon Kvistad	Ord. No. 98-781
121798c-03	12/17/98	FAX letter RE#: stopping changes to WRPAC by-laws	Scott Forrester	Res. No. 98-2733